



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,478	11/19/2001	Nathaniel Heard	9692.6807	5130

7590 02/07/2005

Malin, Haley & DiMaggio, P.A.  
1936 South Andrews Avenue  
Fort Lauderdale, FL 33316

EXAMINER
----------

KNABLE, GEOFFREY L

ART UNIT	PAPER NUMBER
----------	--------------

1733

DATE MAILED: 02/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE

U.S. Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

*C*

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
---------------------------------	-------------	---	---------------------

09/992,478

EXAMINER
----------

ART UNIT	PAPER
----------	-------

20050205

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

See attachment.

*Geoffrey L. Knable*  
Geoffrey L. Knable  
Primary Examiner  
Art Unit: 1733

1. Newly amended/submitted claims 1-15 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Each of the original independent claims 1, 4 and 8 defined that the capture/attachment of the tire tread to the first and second sidewalls was "to define a tire interior area." In other words, the original claims were read to all define or require that the tread in combination with the sidewalls were all required to define the tire interior area. This was the invention that was searched and examined and for which prior art was applied (i.e. in essence with the tread captured between sidewalls to define a tire interior). All of the claims as amended, however, now define a tire casing (including sidewalls), the tire casing itself "defining a tire interior area", the tread being defined as a separate element from the tire casing (in claim 1) or, in claims 4 and 8, the tread is defined as attached to the tire casing. In other words, the claims now expressly define that the tread is attached to an apparent full tire casing (i.e. full casing without the tread). This is considered to clearly define a separate and distinct embodiment of the invention from that originally claimed/presented, it being stressed that the originally presented claims are/were restricted to an embodiment that is mutually exclusive from the embodiment of the invention that is now claimed – in other words, the originally presented claims are not considered to have defined the invention in a manner that is generic to the invention as is now claimed.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. See 37 CFR 1.142(b) and MPEP § 821.03.


2. The amendment filed on November 3, 2004 canceling all claims drawn to the originally presented/"elected" invention and presenting only claims drawn to a different and distinct embodiment mutually exclusive from that originally claimed (and thus a "non-elected embodiment), is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because of the reasons noted in the preceding paragraph.

3. Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey L. Knable whose telephone number is 571-272-1220. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on 571-272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Geoffrey L. Knable  
Primary Examiner  
Art Unit 1733

G. Knable  
February 5, 2005